

Environmental Issues Committee
February 28, 2002
WSDOT Kent Maintenance Facility
Meeting Minutes

Attendees: Tina Morehead (King County), Nancy Aldrich (Richland), Vicki Shapley (Berger/Abam Engineers), Shelley Solomon (Jefferson County), Al King (WSDOT H&LP), John Heinley (WSDOT H&LP), Brian Hasselbach (WSDOT H&LP)

Introductions

Al King initiated the meeting with a round of introductions. He also introduced John Heinley, WSDOT H&LP's new environmental engineer. Al explained that the current environmental responsibilities would be split between John and Brian. John will coordinate the environmental reviews for SW, NC, SC and Eastern Regions, while Brian will retain Olympic and Northwest Regions, as well as statewide policy issues.

Programmatic Biological Assessment

Al briefly described the effort to date: Local Programs' hiring of David Evans & Associates to prepare an assessment of the opportunities for PBA use by local agencies; the distribution of the document; and Local Programs' attempts to gather feedback and future direction on the effort from local agencies.

Al reported that Local Programs' attempt to send a survey to gauge agencies' interest and desire to push forward with a PBA effort, was met with only a few responses and, of those returned, only a small percent indicated strong agreement with pursuing a PBA. A simple follow up survey asking simply "Should we pursue development of a PBA?", "yes" or "no", resulted in the receipt of only one response.

Given this feedback, Al reported that Local Programs' current direction is NOT to pursue the development of a local agency PBA. However, if a group of local agencies later becomes interested in pursuing a PBA, Local Programs would be willing to assist in the development of the document under a pilot program type effort. Of course, a number of issues including funding of such an effort would have to be resolved.

Al noted that the lack of interest seemed to stem mainly from the realization of the limitations of only a FHWA nexus PBA document. FHWA funded local agency projects range from a handful for larger agencies to perhaps one every couple of years for smaller agencies. To enter into such a complicated and time-consuming process for only a couple of projects per agency, applicable only to NLTAAs determinations, didn't seem too appealing.

Environmental Classification Summary

Brian Hasselbach reported that revisions are continuing to occur with the ECS form. Brian noted difficulty in completing the revisions due to the ever-changing requirements. However, he committed to completing the revisions and distributing by the end of March.

Brian reported that the new ECS form would also include consideration of Essential Fish Habitat – likely an additional question or two incorporated into the Part 5 checklist of the ECS.

ACTION ITEM: Brian committed to distributing the ECS with the current revisions to date to the committee for one final opportunity for review and input prior to completion of the revisions.

Al also initiated a discussion regarding how notification of ECS approval is occurring. Brian reported that currently, when OSC receives a copy of the signed ECS from FHWA, OSC makes a copy and sends it to Region Local Programs. Region Local Programs then transmits a copy of the signed ECS to the local agency. Al reported that there has been some confusion with the approval process and a desire for a more formal notification process.

The group discussed possible methods to notify local agencies of NEPA approval. Al agreed to develop internal procedures to define how Region and OSC will transmit NEPA approval to the local agency.

ACTION ITEM: Brian will coordinate with Region Local Programs and OSC to develop an internal policy for NEPA approval notification.

Liaison Staff Update

Brian reported that, as noted in previous e-mail updates, all of the liaisons at NMFS left within a month's time for other employment. Brian reported that the Department is pursuing filling the vacant positions, but acknowledged the history of difficulty in filling the positions. As a temporary fix, DOT offered incentives to our own biologists to temporarily fill the vacant positions until the end of the biennium (June 2003). Three DOT biologists have currently accepted this offer. Obviously there will be some transition period, where the biologists are learning the consultation process. As such, review times will continue to lag.

In the interim, projects will also continue to be distributed to non-liaison biologists for review. Al noted that Local Programs has continued to initiate discussions with DOT's EAO to take advantage of this situation as a means of evaluating the effectiveness of the liaison program with respect to timelines – comparison of liaison review timelines vs. non-liaison review timelines.

A discussion ensued regarding why there have been so many difficulties in both finding competent biologists and retaining liaisons at the Services.

Brian also discussed a new tracking system (the ESA Matrix) that EAO has developed. The system is an Access application that will be shared between numerous resource agencies (NMFS, USFWS, DOE, WDFW, COE) and DOT. DOT will input projects into the ESA Matrix and the resource agencies will input information on the status of that project's review. Although mainly geared towards the Services and ESA, the matrix is

intended to provide status reports for a variety of state and federal permit reviews. This will work well for the state's projects, but Brian noted that Local Programs would mainly utilize the Matrix for status reports on ESA, since responsibility for most of the state and federal permits rests with the local agencies. Brian noted that it would be difficult for him to be aware of when those applications were submitted, keep the Matrix updated and provide updates on status for permits local agencies are coordinating. As such, Local Programs will mainly use the tracking system for ESA consultations.

Stormwater

Brian informed the group that DOT's Instructional Letter would be re-issued in the near future, with added clarification for the IL's use, as well as added language to discuss local agency requirements.

Brian also informed the group that the Department would be convening a technical working committee to begin revisions to DOT's Highway Runoff Manual. This committee will include a local agency representative, so Local Programs will be seeking a suitable representative in the coming weeks.

Finally, Brian informed the group that Ken Stone, DOT's EAO Operations Manager, would likely be a guest speaker at our next meeting. Ken has been coordinating the Department's efforts to revise the IL, negotiate with the Services, and revise the HRM.

Al also noted that the Department was developing their own continuous flow model to augment the revised HRM. While similar to the model the Dept. of Ecology has developed, the Department's model will include some of the aspects the Ecology model lacks with respect to linear transportation projects.

ACTION ITEM: Brian/Al will find out 1) when the revised IL will be issued; 2) when the Department's model is expected to be available to the public; and 3) when the Department anticipates the revisions to the HRM to be completed.

Advanced Biological Assessment Training

Brian informed the group that a session for the Advanced BA training has been scheduled for March. This advanced training is a follow up to the Introduction to ESA/BA training sessions that Local Programs has offered over the past couple of years. The training's intended audience is BA authors and will provide participants a more in-depth discussion of content; specific guidance and how to address specific issues under ESA.

ACTION ITEM: Brian agreed to send out the notice for the training, as well as the link to our on-line registration system, to the Committee members, since a number of members indicated that they had not seen the flyers our T2 Center had distributed.

Future Direction of the EI Committee

Brian and Al discussed the history of the group, its previous intent and how it has evolved through the years. Both noted the importance and value the group has for Local Programs, but noted that they wanted to ensure that the group and its efforts continue to

be of value and a worthwhile expenditure of time for its members. As such, Al opened the discussion to ways we could improve the committee and its function.

The following list summarizes the suggestions posed by the group:

- Keep the group informal. Al suggested the possibility of formalizing the group similar to what has been done with our LAG and Design Standards Committees – formal membership and participation, meetings, etc. Consensus from the group, however, seemed to indicate a desire to keep the meetings and membership informal. Members present indicated that the current informal format is the most desirable, as it allows for an informative, healthy exchange and offers a variety of perspectives to various issues.
- Alter the current monthly schedule of the meetings to a bi-monthly meeting schedule. The group further suggested holding 4 meetings in western Washington (likely Olympia or Lakewood, and perhaps one in Port Townsend) and 2 meetings in eastern Washington (likely in the Tri-Cities area and Spokane).
- Although the agenda has always been open to input, Brian admitted that he has not done a good job of seeking input on topics. As such, Brian committed to requesting agenda topics during the months the group doesn't meet and identifying appropriate guest participants from resource agencies or other agencies, as the topics dictate. It would be anticipated that these guest speakers would present background information on the topic and participate in an interactive discussion with the group.

The group agreed that this would also be a good way to publicize the existence of the Committee with the resource agencies and make them aware of an existing working group of local agencies that could be used as a working committee on future issues and development of guidance.

- Use sub-committees to work on development of guidance and flesh out issues, as issues or guidance needs arise. The sub-committees could meet outside of the EI Committee meetings and provide reports at the EIC meetings. Similar to the effort we undertook to revise the Part 5 checklist in the ECS.
- It was also suggested that we invite experts on various topics to present a condensed training session on a particular topic – lunchtime presenters, so to speak. For example, a presenter could attend a meeting to discuss 4(f); wetland mitigation banking; NEPA; stormwater; etc. Topics to be decided by the Committee.
- Finally, Brian committed to ensuring meeting minutes were completed and distributed shortly following the meetings. He also committed to ensuring distribution of the next meeting's agenda occurs a week or two prior to the meeting.

ACTION ITEM: Brian agreed to summarize the comments from the meeting, incorporate the comments he received from other members who could not attend, and distribute to the group for final comment and suggestions.

Other Issues and Topics

Environmental Monitoring

Al briefly discussed an issue that Local Programs has been initiating internal discussion on, regarding environmental monitoring - particularly with respect to monitoring conditions that have been included in biological opinions issued during ESA consultation. Al noted that Local Programs is in the process of identifying the expectations of both the Services and FHWA; a process to ensure the conditions are complied with; and how the monitoring can be developed to recognize the lack of environmental resources and staff many agencies have. The group indicated a need to ensure trained technicians could, to the greatest extent possible, perform the monitoring, instead of needing to hire a biologist to complete the monitoring.

Al noted that this issue is continuing to develop and we will be including the EI Committee in those discussions during future meetings, in order to begin developing a process and guidance.

Section 106

Brian informed the group that FHWA and DOT were considering modifications to the existing list of exempt activities for 106 considerations under the programmatic agreement. Brian noted that he has been maintaining a running list of categories of projects that seem to be applicable to an exempted status but are not currently included in the PA. As such, Brian will be forwarding that list onto FHWA as suggested additions. Brian requested any suggested additions to his list from the group.

ACTION ITEM: Brian will distribute copies of his list of suggested additions to the PA to the group, for comment.

Next Meeting

A to be determined date in April.